

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

In re

LEHMAN BROTHERS HOLDINGS INC., et al.,

Debtors.

Chapter 11

Case No. 08-13555 (JMP)

(Jointly Administered)

**DECLARATION OF SAMUEL STUCKI IN SUPPORT OF THE JOINT  
MOTION OF SEA PORT GROUP SECURITIES, LLC AND BERNER  
KANTONALBANK TO DEEM PROOFS OF CLAIM TO BE TIMELY FILED  
BY THE SECURITIES PROGRAMS BAR DATE**

Pursuant to 28 U.S.C. § 1746, Samuel Stucki, declares and says:

1. I am Samuel Stucki, Attorney, Legal Department, at Berner Kantonalbank ("BEKB").

2. I submit this declaration in support of the Joint Motion of Sea Port Group Securities, LLC ("Seaport") And Berner Kantonalbank (together with Seaport, the "Movants") To Deem Proofs Of Claim To Be Timely Filed By The Securities Programs Bar Date (the "Motion") filed on December 12, 2009. [Docket number 6150]. I submit as to facts based on my personal knowledge or as contained in the business records of BEKB as to which I am competent to testify.

3. BEKB is a regional bank that provides commercial banking and financial services in Switzerland. It principally offers mortgage financing, acceptance of asset management, customer deposits, and property advisory services. The company also provides personal banking, corporate banking, private banking, online banking, stock exchange dealings, financing, asset management, investment and financial advisory services.

4. On September 4, 2009, BEKB trader Andreas Josi confirmed a Seaport purchase of an 11 note portfolio from BEKB issued by Lehman Brothers Treasury Co. B.V. ("LBTCBV") and guaranteed by Lehman Brothers Holdings Inc. ("LBHI").



5. Andreas Josi in the related correspondence confirmed a settlement date of September 11, 2009, for the purchase and sent Bill Wong and Jay Sommer, two of the Seaport employees who were involved in the transaction, a trade list setting forth the 11 notes on a two-page spreadsheet.

parlance) and instructed the BEKB Settlement Department to have Andreas Josi contact the Seaport traders involved in the September 4 purchase.

10. No Seaport trader was copied on the correspondence. In fact, the Seaport traders involved in the September 4 purchase had no knowledge of the failure of the Page Two Trades to settle until November 5, 2009, three days after the Lehman Programs Securities bar date.


11. On November 5, 2009, Andreas Josi contacted Jay Sommer with the news that the Page Two Trades had failed to settle. That correspondence, which was also addressed to people who work in Seaport's back office as well as those who work in BEKB's settlement department, finally connected all the parties necessary to identify the failed settling of the Page Two Trades.

12. Seaport and BEKB thereafter began working toward finding a resolution for the unsettled trades. It took several weeks in order for the parties to understand exactly what had happened, the magnitude of the error, and the potential consequences.

13. On December 10, 2009, BEKB informed Seaport that proofs of claim for the Page Two Trades were being prepared, and would be filed as quickly as possible. These claims were filed with EPIQ Bankruptcy Solutions on December 14, 2009, claim numbers 65931, 65932 and 65933.

14. I declare under penalty of perjury that the foregoing is true and correct.

Dated: December 23, 2009  
Berne, Switzerland.

By:   
Name: Samuel Stucki  
Title: Attorney, Legal Department







Deed Nr. 985

## LEGALIZATION OF SIGNATURE

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**Birgit Biedermann,**  
notary public of the Canton of Berne (Switzerland),  
with offices at Berne and at Bolligen

certifies

The foregoing signature written for the company **Berner Kantonalbank AG**, Bundesplatz 8, in Berne "S. Stucki" is acknowledged to be written in own hand by

Mr. **Samuel Stucki**, born 17.03.1981, citizen of Blumenstein BE, unmarried, Gesellschaftsstrasse 42, 3012 Bern

who is authorized to sign individually for the submentioned company concerning Case N°. 08-13555 (JMP) Chapter 11 proceeding referring Lehman Brothers Holdings Inc et al.

Mr. Samuel Stucki is known to the notary personally.

Certified at the office of the notary public on the twentythird of december of two thousand and nine.

23.12.2009

The notary public:

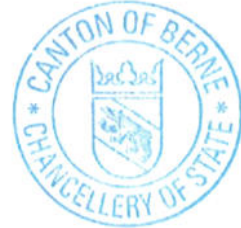


**APOSTILLE**  
(Convention de La Haye du 5 octobre 1961)

1. Country: Swiss Confederation, Canton of Berne  
This public document  
2. has been signed by Birgit Biedermann  
3. acting in the capacity of notary  
4. bears the seal/stamp of notary's office  
of the Canton of Berne

Certified

5. at Berne 6. the 23/12/2009  
7. by Luana Bösiger-Grazzini  
official of the Chancellery of State of the Canton of Berne  
8. under number: 5113  
9. Stamp/seal 10. Signature  
L. Bösiger-Grazzini



Tax: CHF 20.-

